

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

SIGRUN COCKRELL, §  
*Plaintiff*, §  
VS. § CIVIL ACTION NO. 1:21-cv-00241  
WAL-MART, § JURY TRIAL REQUESTED  
*Defendant*. §

**NOTICE OF REMOVAL**

Defendant **WAL-MART** (hereinafter “Defendant”), files this Notice of Removal of the above-styled action pursuant to 28 U.S.C. § 1446(a) and would respectfully represent and show unto this Court the following:

**A. Introduction**

1. Defendant has filed its Civil Cover Sheets pursuant to Local Rule 3.1 and Local Rule 81.1. *See Exhibit A.*

2. On or about December 31, 2020, Plaintiff **SIGRUN COCKRELL** (“Plaintiff”) initiated the state court lawsuit against Defendant in the 201<sup>st</sup> Judicial District Court of Travis County, styled *Sigrun Cockrell v. Wal-Mart.*; Cause No. D-1-GN-20-007777 (the “State Court Action”). In the State Court Action, Plaintiff alleged a cause of action for premises liability against Defendant. In addition, Plaintiff seeks to recover damages for pain and suffering in the past, pain and suffering in the future, mental anguish in the past, mental anguish in the future, past medical expenses, future medical expenses, physical impairment in the past, physical impairment in the future, physical disfigurement in the past, physical disfigurement in the future, loss of use, pre-judgment interest, post-judgment interest, and exemplary damages. *See Plaintiff’s Original Petition*, attached hereto as **Exhibit B.**

3. The attorneys involved in the action being removed are listed as follows:

<u>Party and Party Type</u>	<u>Attorney(s)</u>
Sigrun Cockrell - Plaintiff	Mark Burke Texas Bar No. 24073979 THE LAW OFFICES OF THOMAS J. HENRY 5710 Hausman Road, Suite 108 San Antonio, Texas 78249 Phone: 210-656-1000 Fax: 361-985-0601 Email: <a href="mailto:mburke-svc@thomasjhenrylaw.com">mburke-svc@thomasjhenrylaw.com</a> Email: <a href="mailto:mburke@thomasjhenrylaw.com">mburke@thomasjhenrylaw.com</a>
Wal-Mart - Defendant	Brett H. Payne Texas Bar No. 00791417 WALTERS, BALIDO & CRAIN, L.L.P. 9020 N. Capital of Texas Highway Building I, Suite 170 Austin, Texas 78759 Phone: 512-472-9000 Fax: 512-472-9002 Email: <a href="mailto:paynefax@wbcclawfirm.com">paynefax@wbcclawfirm.com</a>

4. The name and address of the court from which the case is being removed is as follows:

201<sup>st</sup> Judicial District Court  
The Honorable Amy Clark Meachum  
Travis County Courthouse  
1000 Guadalupe, 3<sup>rd</sup> Floor  
Austin, Texas 78701  
Phone: (512) 854-9305  
Fax: (512) 854-2268  
Mailing Address:  
P.O. Box 1748  
Austin, Texas 78767

#### **B. The Notice Of Removal Is Timely**

5. Defendant's agent was served with citation and a copy of Plaintiff's Original Petition on or about February 12, 2021. *See Exhibit C.* Pursuant to 28 U.S.C. § 1446(b),

Defendant's Notice of Removal was filed within thirty (30) days after receipt by Defendant, through service or otherwise, of a copy of an initial pleading from which it may first be ascertained that the case is one which is or has become removable.

**C. Complete Diversity & Amount In Controversy Is Over the Threshold**

6. Pursuant to the State Court Action, Plaintiff Sigrun Cockrell is an individual residing in Texas.

7. Defendant Wal-Mart is now, and was at all times relevant hereto, a foreign for-profit corporation which owns and operates the business commonly known as Wal-Mart in Bentonville, Arkansas. Defendant's corporate headquarters, including officers and directors, is located at 702 S.W. 8<sup>th</sup> Street, Bentonville, Arkansas 72716-8312. Defendant's registered agent, upon whom Defendant may be served with process, is CT Corporation System, located at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. In light of the foregoing, the parties are of completely diverse citizenship. *See* 28 U.S.C. §§ 1332(a), 1332(c)(1) 1441(b).

9. Further, the case involves an amount in controversy of more than \$75,000. *See* 28 U.S.C. § 1332(a). A court can determine that removal is proper from a plaintiff's pleadings if plaintiff's claims are those that are likely to exceed the jurisdictional amount. *See Allen v. R&H Oil & Gas., Co*, 63 F.3d 1326, 1335 (5<sup>th</sup> Cir. 1995); *De Aguilar v. Boeing Co.*, 11 F.3d 55, 57 (5<sup>th</sup> Cir. 1993). In the State Court Action, Plaintiff alleges she seeks "monetary relief between two hundred fifty thousand and 00/100 dollars (\$250,000.00) and one million and 00/100 dollars (\$1,000,000.00)." *See Exhibit B*. Thus, the amount in controversy in the instant case meets the requirements for removal.

10. Copies of all pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a). *See Exhibit D.*

**D. Basis for Removal**

11. Because this is a civil action of which the District Courts of the United States have original jurisdiction, this case may be removed by this Court pursuant to 28 U.S.C. § 1446(b). Further, because Plaintiff is a citizen and resident of Texas, Defendant's principal places of business are located in Arkansas, and the amount in controversy exceeds \$75,000.00, the Court has subject matter jurisdiction based on diversity of citizenship and residency. 28 U.S.C. § 1132. As such, this removal action is proper.

**E. Filing of Notice with State Court**

12. Promptly after filing this Notice of Removal, Defendant will give written notice of the removal to Plaintiff through her attorney of record and to the clerk of the state court action.

**F. Prayer**

13. **WHEREFORE, PREMISES CONSIDERED**, Defendant Wal-Mart requests that this Court proceed with the handling of this cause of action as if it had been originally filed herein, that this Court make such orders, if any, and take such action, if any, as may be necessary in connection with the removal of the state court action to this Court, and that they have such other and further relief to which they may show themselves justly entitled.

Respectfully submitted,

BY: /s/ Brett H. Payne  
Brett H. Payne  
Texas Bar Number 00791417  
WALTERS, BALIDO & CRAIN, L.L.P.  
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9020 N. Capital of Texas Highway  
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Austin, Texas 78759  
Phone: 512-472-9000  
Fax: 512-472-9002  
Email: [paynefax@wbclawfirm.com](mailto:paynefax@wbclawfirm.com)

**ATTORNEY FOR DEFENDANT  
WAL-MART**

**CERTIFICATE OF SERVICE**

This is to certify that on the 12<sup>th</sup> day of March, 2021, a true and correct copy of the above and foregoing was forwarded to all counsel of record in accordance with the Federal Rules of Civil Procedure.

Mark Burke  
The Law Offices of Thomas J. Henry  
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*/s/ Brett H. Payne*  
BRETT H. PAYNE